



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA-R05-OAR-2020-0410; EPA-R05-OAR-2021-0141; FRL-9484-02-R5]

Air Plan Approval; Wisconsin; Redesignation of the Manitowoc, Wisconsin, Area to Attainment of the 2015 Ozone Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) finds that the Manitowoc, Wisconsin, area is attaining the 2015 ozone National Ambient Air Quality Standard (NAAQS or standard) and is approving, in accordance with a request from the Wisconsin Department of Natural Resources (WDNR), the redesignation of the area to attainment for the 2015 ozone NAAQS, because the request meets the statutory requirements for redesignation under the Clean Air Act (CAA). Also, EPA is approving WDNR's certification that its stationary annual emissions statement regulation, which has been previously approved by EPA under a prior ozone standard, satisfies the CAA emission statement rule requirement for the 2015 ozone standard. WDNR submitted these requests on August 3, 2020, and October 29, 2021. EPA is also approving, as a revision to the Wisconsin State Implementation Plan (SIP), the State's plan for maintaining the 2015 ozone NAAQS through 2033 in the Manitowoc area. EPA also finds adequate and is approving Wisconsin's 2025 and 2033 volatile organic compound (VOC) and oxides of nitrogen (NO_x) motor vehicle

emission budgets for the Manitowoc area. These revisions satisfy the emissions inventory requirements for the partial Manitowoc area under the 2015 ozone NAAQS. The CAA requires emission inventories for all areas that were designated nonattainment.

DATES: This final rule is effective on **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: EPA has established dockets for this action under Docket ID No. EPA-R05-OAR-2020-0410 and EPA-R05-OAR-2021-0141. All documents in the docket are listed on the www.regulations.gov website. Although listed in the index, some information is not publicly available, *i.e.*, Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either through www.regulations.gov or at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays and facility closures due to COVID-19. We recommend that you telephone Emily Crispell, Environmental Scientist, at (312) 353-8512 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Emily Crispell, Environmental Scientist, Control Strategies Section, Air Programs Branch

(AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353-8512, *crispell.emily@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document whenever “we,” “us,” or “our” is used, we mean EPA.

I. Background Information.

On February 1, 2022 (87 FR 5438), EPA proposed to approve the 2015 Ozone NAAQS Redesignation and Maintenance Plan for the Manitowoc area, WDNR’s 2025 and 2033 VOC and NO_x motor vehicle emission budgets for the Manitowoc area, WDNR’s emissions inventory for the partial Manitowoc area under the 2015 ozone NAAQS, and WDNR’s emissions statement certification for the 2015 ozone standard. An explanation of the CAA requirements, a detailed analysis of the revisions, and EPA’s reasons for proposing approval were provided in the notice of proposed rulemaking (NPRM) and will not be restated here. The public comment period for this proposed rule ended on March 3, 2022.

During the comment period, EPA received one comment. The comment was supportive of the proposed action and the commentor stated that environmental regulations are necessary and that the proposed regulation should go into effect. The comment received is included in the docket for this action. EPA did not receive any adverse comments. Therefore, we are finalizing our action as proposed.

II. What Action is EPA Taking?

EPA finds that the Manitowoc area is attaining the 2015 ozone NAAQS, based on quality-assured and certified monitoring data for 2018-2020 showing that the area has met the requirements for redesignation under section 107(d)(3)(E) of the CAA. Quality-assured and certified monitoring data for 2021 show that the area continues to attain the 2015 ozone NAAQS. EPA is thus approving a change in the legal designation of the Manitowoc area from nonattainment to attainment for the 2015 ozone NAAQS. EPA is also approving, as a revision to the Wisconsin SIP, the State's maintenance plan for the area. The maintenance plan is designed to keep the Manitowoc area in attainment of the 2015 ozone NAAQS through 2033. EPA also finds adequate and is approving the newly established 2025 and 2033 VOC and NO_x motor vehicle emission budgets for the Manitowoc area. EPA is also approving the base year emissions inventories for the partial Manitowoc area under the 2015 ozone NAAQS. Finally, we are confirming that Wisconsin has acceptable and enforceable annual emission statement regulations for the 2015 ozone standard.

In accordance with 5 U.S.C. 553(d) of the Administrative Procedure Act (APA), EPA finds there is good cause for this action to become effective immediately upon publication. The immediate effective date for this action is authorized under 5 U.S.C. 553(d)(1).

Section 553(d)(1) of the APA provides that final rules shall not become effective until 30 days after publication in

the *Federal Register* "except . . . a substantive rule which grants or recognizes an exemption or relieves a restriction." The purpose of this provision is to "give affected parties a reasonable time to adjust their behavior before the final rule takes effect." *Omnipoint Corp. v. Fed. Commc'n Comm'n*, 78 F.3d 620, 630 (D.C. Cir. 1996); see also *United States v. Gavrilovic*, 551 F.2d 1099, 1104 (8th Cir. 1977) (quoting legislative history). However, when the agency grants or recognizes an exemption or relieves a restriction, affected parties do not need a reasonable time to adjust because the effect is not adverse. EPA has determined that this rule relieves a restriction because this rule relieves sources in the area of Nonattainment New Source Review (NNSR) permitting requirements; instead, upon the effective date of this action, sources will be subject to less restrictive Prevention of Significant Deterioration (PSD) permitting requirements. For this reason, EPA finds good cause under 5 U.S.C. 553(d)(1) for this action to become effective on the date of publication of this action.

III. Statutory and Executive Order Reviews.

Under the CAA, redesignation of an area to attainment and the accompanying approval of a maintenance plan under section 107(d)(3)(E) are actions that affect the status of a geographical area and do not impose any additional regulatory requirements on sources beyond those imposed by state law. A redesignation to attainment does not in and of itself create any new requirements, but rather results in the applicability of

requirements contained in the CAA for areas that have been redesignated to attainment. Moreover, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based

on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

This action is subject to the Congressional Review Act, and EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court

of Appeals for the appropriate circuit by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, and Volatile organic compounds.

40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: March 21, 2022.

Debra Shore,
Regional Administrator, Region 5.

For the reasons stated in the preamble, EPA amends 40 CFR parts 52 and 81 as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

2. Section 52.2585 is amended by adding paragraph (rr) to read as follows:

§ 52.2585 Control strategy: Ozone.

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(rr) *Redesignation*. Approval - On October 29, 2021, Wisconsin submitted a request to redesignate the Manitowoc County area to attainment of the 2015 8-hour ozone standard. As part of the redesignation request, the State submitted a maintenance plan as required by section 175A of the Clean Air Act. Elements of the section 175 maintenance plan include a contingency plan and an obligation to submit a subsequent maintenance plan revision in eight years as required by the Clean Air Act. The ozone maintenance plan also establishes 2025 and 2033 Motor Vehicle Emission Budgets (MVEBs) for the area. The 2025 MVEBs for the Manitowoc County area are 0.47 tons per hot summer day for VOC and 0.91 tons per hot summer day for NO_x. The 2033 MVEBs for the Manitowoc County area are 0.32 tons per hot summer day for VOC and 0.61 tons per hot summer day for NO_x.

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

3. The authority citation for part 81 continues to read as

follows:

Authority: 42 U.S.C. 7401, *et seq.*

4. Section 81.350 is amended by revising the entry for "Manitowoc County, WI" in the table entitled "Wisconsin-2015 8-Hour Ozone NAAQS [Primary and Secondary]" to read as follows:

§ 81.350 Wisconsin.

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WISCONSIN-2015 8-HOUR OZONE NAAQS
[Primary and Secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date ²	Type
* * * * *	* *			
Manitowoc County, WI	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]	Attainment		Marginal (Rural Transport).
Manitowoc County (part):				
Inclusive and east of the following roadways with the boundary starting from north to south: County Road B which turns into South State Street to County Road V which turns into Forest Home Drive to South Packer Drive to West Hillcrest Road to Highway 43 to West Custer Street to Dufek Drive which turns into Highway 42				
* * * * *	* *			

¹Includes any Indian country in each county or area, unless otherwise specified. EPA is not determining the boundaries of any area of Indian country in this table, including any area of Indian country located in the larger designation area. The inclusion of any Indian country in the designation area is not a determination that the state has regulatory authority under the Clean Air Act for such Indian country.

²This date is August 3, 2018, unless otherwise noted.

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